

REMARKS

The Examiner's Office Action of April 5, 2004 has been received and its contents reviewed. Claims 1-83 are pending, of which claims 1-9, 11-18, 21-58 and 65-83 have been withdrawn from consideration. Accordingly, claims 10, 19, 20 and 59-64 are currently being considered and have been amended to clarify the claims. In view of the remarks below, Applicants respectfully request reconsideration and allowance of all the pending claims.

Referring now to the detailed Office Action, the drawings are objected to as containing a typographical inconsistency. In accordance with the suggestion made in the Office Action, Applicants provide herewith a replacement FIG. 46 that replaces "T_C_C_R" with "T_C-C_R" in the instruction associated with Index "0". Thus, Applicants respectfully request reconsideration and withdrawal of the objection to the drawings.

Turning to the rejection of the claims, the Office Action rejects claims 10, 19, 20 and 59-64 under 35 U.S.C. 103(a) as being unpatentable in view of U.S. Publication No. 2002/0007493 to Butler et al. (hereinafter "Butler"). In view of the comments that follow, Applicants respectfully traverse these rejections.

The Butler patent is directed to a system that broadcasts a video stream as well as supplemental data files that have instructions for rendering a hyperlink overlay on the video stream as well as other instructions on how files should be handled by the receiving equipment (see Abstract). Additionally, Butler discloses that receiving equipment is configured to render video behind the hypertext overlays.

On the other hand, the presently claimed invention as set forth in independent claim 10, is directed to a transmission device that comprises "a transmitter that transmits a transport stream including content data and instructions or data for changing reproduction control content based upon a comparison of recording environment information and reproduction environment information." Applicants respectfully submit that the Butler publication does not teach or suggest all claimed features of the present invention.

For example, Applicants initially note that Butler's receiver does not include instructions or data for changing reproduction control content based upon a comparison of recording environment information and reproduction environment information, as set forth in claim 10 of the present invention. Initially, Applicants can find no passage within Butler that discloses any type of recording. Instead, Butler merely receives the broadcast at receiver 14

and renders the received video and supplemental data files on a display (see for example, paragraphs [0018] and [0019]). As best understood, there appears to be no recording performed in the receiver 14 of Butler. The Office Action refers to paragraph [0048] where timing information is described as indicating “time relative to the video stream, at which particular overlays should be displayed.” Additionally, the Office Action indicates that “Hyperlinks can be activated to override the specific timings.” However, Applicants respectfully submit that the timing of overlays and activation of hyperlinks does not correspond to instructions or data for changing reproduction control content based upon a comparison of recording environment information and reproduction environment information, as set forth in claim 10 of the present invention. In fact, the Butler patent only makes passing references to recording devices (e.g., VCRs and the like) and certainly does not discuss changing reproduction control content based upon a comparison of recording environment information and reproduction environment information as recited in independent claim 10. Accordingly, Applicants request reconsideration and withdrawal of the rejection or if this rejection is maintained a further explanation with regard to the rejection.

Independent claim 19, rejected for the same reasons as independent claim 10, is directed to a transmitter that transmits a transport stream including content data and a first set of conditions or instructions applied when in reproduction, or transmits a transport stream including content data and a second set of conditions or instructions that are applied when not in reproduction. Applicants respectfully submit that the Butler publication does not teach or suggest all claimed features of the present invention for at least the same reasons described above with regard to independent claim 10. In fact, Applicants cannot find any discussion regarding, for example, a second set of conditions or instructions that are applied when not in reproduction.

Independent claims 59-61 are directed to a transmission device, a transmission method and a carrier wave, respectively, that include “interactive control data including an instruction to alter the processing content at a receiving end based on a comparison of a recording environment when recording was performed with a reproduction environment when reproduction is performed.” Again, Applicants submit that there is no teaching of such a feature within Butler for the reasons described above. Applicants submit that the Butler patent only makes passing references to recording devices (e.g., VCRs and the like) and

certainly does not discuss an instruction to alter the processing content at the receiving end based on comparing the recording environment when the recording was performed with the reproduction environment when reproduction is performed. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

Independent claim 20 is directed to a transmission device that transmits a transport stream that includes “a program/script which is of different control content depending on whether the current mode is reception mode or is left in reproduction mode.” Applicants respectfully submit that the Butler publication does not teach or suggest all claimed features of the present invention.

For example, Applicants respectfully submit that Butler’s recorder/receiver does not include a program/script which is of different control content depending on whether the current mode is reception mode or is left in reproduction mode, as set forth in claim 20. As admitted by the Examiner on page 4 of the Office Action, Butler does not disclose a program/script which is of different control content depending on whether the current mode is reception mode or is left in reproduction mode. However, the Examiner takes Official Notice indicating that receiving a script is well known. Applicants respectfully challenge the Official Notice taken in the Office Action with regard to this feature and submit that, while program/scripts may be known, the manner in which one is employed in the presently claimed invention is non-obvious and could only be made obvious by the use of improper hindsight. For example, as discussed above, Applicants submit that the Butler patent only makes passing references to recording devices (e.g., VCRs and the like) and does not disclose differing control content depending on whether the current mode is reception mode or is left in reproduction mode, as set forth in claim 20 of the present invention. Thus, Applicants respectfully request that a reference be provided that discloses a recorder/receiver that includes a program/script which is of different control content depending on whether the current mode is reception mode or is left in reproduction mode.

Independent Claim 62 is directed to a carrier wave that includes “control data including a portion that executes different control content in reception mode and in reproduction mode.” As admitted by the Examiner on page 5 of the Office Action, Butler does not disclose control data including a portion that executes different control content in reception and reproduction, but takes Official Notice indicating such action is well known.

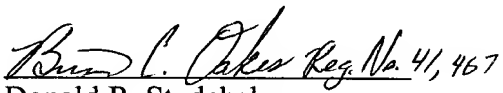
Applicants respectfully challenge the Official Notice taken with regard to this feature in the Office Action. Applicants submit that executing different control content in reception mode and reproduction mode is non-obvious, and could only be made obvious by the use of improper hindsight. Specifically, Applicants submit that Butler appears to make no distinction between how data is employed when receiving video and supplemental data files and when reproducing the video. Thus, Applicants respectfully request that a reference be provided that discloses executing different control content in reception mode and reproduction mode.

Independent claims 63 and 64 are directed to similar subject matter as independent claim 62 and should be considered allowable for at least the same reasons as described above. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

In view of the amendments and arguments set forth above, Applicants respectfully request reconsideration and withdrawal of all the pending rejections.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise which could be eliminated through discussions with Applicants' representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,


for Donald R. Studebaker
Registration No. 32,815

DRS/BCO

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
(202) 585-8000